

Exhibit F

State of California ex rel. Ven-A-Care of the Florida Keys, Inc.
v. Abbott Laboratories, Inc., et al., Master Civil Action No. 01-12257-PBS,
Subcategory Case No. 06-11337

Exhibit to the December 21, 2009 Declaration of Christopher C. Palermo in Support
of Defendants Mylan Inc. and Mylan Pharmaceuticals Inc's. Opposition to Plaintiffs' Motion for Partial Summary
Judgment

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1 COMMONWEALTH OF KENTUCKY
2 FRANKLIN CIRCUIT COURT - DIVISION I
3 -----x
4 COMMONWEALTH OF KENTUCKY, :
5 ex rel JACK CONWAY, ATTORNEY :
6 GENERAL, : CIVIL ACTION NO.
7 Plaintiff, : 04-CI-1487

8 v :
9 ALPHARMA USPD, INC., et al, :
10 Defendant. :

11 -----x

12 Thursday, June 26, 2008

13 Videotape Deposition of DAVID WORKMAN, a witness
14 herein, taken on behalf of the Plaintiffs in the
15 above-entitled cause of action pursuant to notice and
16 the Kentucky Rules of Civil Procedure by and before
17 Debra A. Volk, Professional Court Reporter and Notary
18 Public within and for the State of West Virginia at
19 the offices of Streski Reporting and Video Service,
20 WestMon Center IV, 829 Fairmont Road, Suite 101,
21 Morgantown, West Virginia 26501, commencing at
22 9:10 a.m.

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<p style="text-align: right;">Page 62</p> <p>1 A. It depends on what intelligence, 2 feedback on our pricing, yes. There are reference 3 materials that we may use.</p> <p>4 Q. IMS material?</p> <p>5 A. IMS.</p> <p>6 Q. Anything else, any other reference 7 material?</p> <p>8 A. Red Book, Price Alert, now we have a 9 tool known as Analysource. We would also look at 10 various web sites to see if either customers list 11 their prices for particular products.</p> <p>12 Q. What do you mean by that?</p> <p>13 A. The majority of the wholesalers have 14 web sites and they will put on there where -- who 15 the manufacturer is for certain products, the VA 16 web site lists who is on their federal supply 17 schedule and it also contains what pricing 18 they're getting other manufacturers products at.</p> <p>19 A. All right.</p> <p>20 The wholesalers, would they -- so 21 you'd look at a wholesalers' web site to try to 22 determine what the wholesalers are selling the</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Okay. 2 So you when you got -- 3 A. I don't think the efficacy is related 4 to our product, although they're similar their 5 efficacy is related to the reference product.</p> <p>6 Q. Yes, that reference product being the 7 innovator or the patent? 8 A. That's correct.</p> <p>9 Q. So you get market intelligence from 10 the wholesale web sites and from the customers, 11 any other place that you try to determine at what 12 price the product is actually selling to the 13 providers?</p> <p>14 MR. ESCOBAR: Other than what he 15 mentioned, in addition to that because he 16 mentioned --</p> <p>17 MR. BARNHILL: Ah, careful, careful, 18 careful. No additions.</p> <p>19 MR. ESCOBAR: There is no repetition. 20 I mean, he told you about IMS --</p> <p>21 MR. BARNHILL: You can object. You 22 can't start making comments for the record.</p>
<p style="text-align: right;">Page 63</p> <p>1 drug at? 2 A. Yes.</p> <p>3 Q. Okay. 4 And you'd try to get information 5 about what your customers or what your potential 6 customers are actually paying in the field; is 7 that --</p> <p>8 A. Yes.</p> <p>9 Q. And is it fair to say that generic 10 drugs are essentially a commodity?</p> <p>11 MR. ESCOBAR: Objection to the form.</p> <p>12 A. Every product is different. As 13 competition continues to be more aggressive the 14 generic product, and we do have a large product 15 line, I would consider most of our items a 16 commodity.</p> <p>17 BY MR. BARNHILL:</p> <p>18 Q. And that's because if Teva makes a 19 comparable product it has to be -- it has to have 20 essentially the same efficacy as your product; is 21 that correct?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. ESCOBAR: But Chuck, you can't 2 ask a question that ignores what he just 3 answered.</p> <p>4 BY MR. BARNHILL:</p> <p>5 Q. My question is -- and you're free to 6 say that you already told me this. All I can 7 remember from the market intelligence is that you 8 got -- you went to the wholesaler's web sites to 9 determine what they were actually selling their 10 product, you went to your customers to find out 11 what they were actually buying the product for; 12 is that correct?</p> <p>13 MR. ESCOBAR: Objection to the form.</p> <p>14 That's not what he said.</p> <p>15 BY MR. BARNHILL:</p> <p>16 Q. Did you go to your customers and 17 actually ask -- try to find out what they were 18 paying for the product?</p> <p>19 A. The only web site that would show 20 that would be -- the VA web site shows that and 21 then any publication by Minnesota Multi-State 22 would show that.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q. No, but I mean you -- 2 A. You wouldn't necessarily see what a 3 wholesaler's acquisition cost was or what their 4 net acquisition cost was. You would see their 5 pricing for that and the manufacturer they were 6 using was.</p> <p>7 Q. Would you also go to customers or 8 potential customers and try to find out what 9 they're actually paying for the product --</p> <p>10 MR. ESCOBAR: Objection to the form. 11 BY MR. BARNHILL:</p> <p>12 Q. -- through your salesman making 13 inquiries or the like?</p> <p>14 MR. ESCOBAR: Objection to the form. 15 A. I don't necessarily think we were 16 after what they're paying for the product now but 17 we were trying to determine what price point we 18 would need to be at to gain their business.</p> <p>19 BY MR. BARNHILL:</p> <p>20 Q. I understand that. 21 But part of that is finding out what 22 the customer is paying for that product at the</p>	<p style="text-align: right;">Page 68</p> <p>1 So you talk to customers about what 2 price they're willing to pay essentially; is that 3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. 6 And I take it your prices have to 7 generally be competitive with any other generic 8 manufacturers; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. 11 Now you also set at the time of the 12 launch wholesale acquisition costs or what's 13 called in this document an A1; how do you go 14 about setting the wholesale acquisition cost at 15 the launch of a drug?</p> <p>16 A. Every product and situation is 17 different.</p> <p>18 Q. Well, that's one answer but I'd like 19 to get a sort of a general view of how, what the 20 variables are and how you go about weighing in -- 21 how you with that mix come up with a wholesale 22 acquisition cost as a general matter?</p>
<p style="text-align: right;">Page 67</p> <p>1 time that you're getting ready to market it; is 2 that correct?</p> <p>3 A. I don't think we could find that out 4 with the exception of the VA web site and any 5 information that we would receive from Minnesota 6 Multi-State.</p> <p>7 Q. Wouldn't you ask your customers what 8 they're paying, don't your salesman do that?</p> <p>9 A. I can't speak for them, but it's my 10 belief that it's more of a conversation of what 11 price do we need to be at to gain their business, 12 not necessarily what they're buying it for now. 13 And I'll distinguish that by -- it would be hard 14 for me to believe that they may switch if we just 15 met their existing price unless there was a 16 supply issue with their current supplier. I'm 17 unsure, every product would be different, every 18 buyer or purchasing decision may be different, 19 but our information is more not necessarily what 20 they're paying for it now versus what price point 21 we need to be at to gain their business.</p> <p>22 Q. All right.</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. ESCOBAR: Objection to the form. 2 A. Our prices are lower than the branded 3 products price. We review other generic companies 4 prices, we review the branded companies prices 5 and we determine what our WAC is and the part of 6 that is based upon where our contract prices are 7 and we established our WAC between our AWP and 8 where our contract prices are going to be 9 established.</p> <p>10 BY MR. BARNHILL:</p> <p>11 Q. Well, what information do you rely on 12 in setting your WAC?</p> <p>13 MR. ESCOBAR: Objection to the form. 14 BY MR. BARNHILL:</p> <p>15 Q. Is one piece of information what the 16 brand WAC is?</p> <p>17 A. Where the brand product is priced at 18 AWP and WAC and where our other generic 19 customers, I'm sorry, where our other generic 20 competitor's AWPs and WACs are.</p> <p>21 Q. So you look at the brand, AWP and WAC 22 and then you look at your competitor's AWP and</p>

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<p>1 WAC?</p> <p>2 A. Correct.</p> <p>3 Q. Where else do you look for information about, for information that you will utilize in setting your WAC, if any place?</p> <p>4 A. That would be the same, the same 5 resource as the market information, that is part 6 of the market information that I was referring 7 to.</p> <p>8 Q. All right.</p> <p>9 And you know what the WAC is because 10 those are published prices; is that correct?</p> <p>11 A. They are, yes.</p> <p>12 Q. All right.</p> <p>13 Now what relationship does the WAC 14 have to the actual selling price or the initial 15 bid price you're going to circulate to your 16 customers, --</p> <p>17 MR. ESCOBAR: Objection to the form.</p> <p>18 BY MR. BARNHILL:</p> <p>19 Q. -- if any?</p> <p>20 A. Our WAC is in between our AWP prices</p>	<p>Page 70</p> <p>1 invoice, you invoice people at WAC; what do you 2 mean by that?</p> <p>3 A. That we ship product to customers and 4 we invoice them at WAC.</p> <p>5 Q. And which product -- which customers 6 actually get invoiced at WAC?</p> <p>7 A. Like I said every product is 8 different, for the generic products the majority 9 of our products are invoiced to the wholesalers 10 at WAC. We do have some generic products that we 11 invoice to our other customers at WAC. Some of 12 the branded products that we brought into the 13 Mylan portfolio from the Bertek product line are 14 invoiced at WAC.</p> <p>15 Q. Okay.</p> <p>16 Now when you say you invoice 17 wholesalers at WAC, that doesn't mean that that's 18 the price that the wholesalers pay net; is that 19 correct?</p> <p>20 MR. ESCOBAR: Objection to the form.</p> <p>21 A. I would say that's correct.</p> <p>22 BY MR. BARNHILL:</p>
<p>1 and our contract prices; we do sell an invoice at 2 WAC.</p> <p>3 Q. No, but my question is a little 4 different; what's the relationship between the 5 WAC and the initial bid price when you set a 6 price for a product --</p> <p>7 MR. ESCOBAR: Objection to the form.</p> <p>8 BY MR. BARNHILL:</p> <p>9 Q. -- if any?</p> <p>10 A. Every product and every situation is 11 different.</p> <p>12 Q. I see.</p> <p>13 So at one point the WAC may be 30 14 percent greater than the initial bid price and 15 another point -- another product may be 50 16 percent greater than the initial bid price?</p> <p>17 MR. ESCOBAR: Objection to the form.</p> <p>18 A. I don't think that there is a 19 relative relationship that I can generalize.</p> <p>20 BY MR. BARNHILL:</p> <p>21 Q. Okay. That's a fine answer.</p> <p>22 Now the WAC is, you say you have an</p>	<p>Page 71</p> <p>1 Q. Okay.</p> <p>2 Can you describe for us the process 3 of invoicing the wholesaler at WAC and how that 4 relates to what we haven't talked about here yet, 5 but we will, charge backs in connection with the 6 selling process?</p> <p>7 A. Yeah, well, we invoice wholesalers at 8 WAC and within our agreed relationship there is a 9 discount associated with prompt payment. If they 10 pay within a certain timeframe they receive up to 11 I believe a 2 percent discount.</p> <p>12 Q. All right.</p> <p>13 A. Also the wholesalers may have a 14 distribution fee and that may be attached to WAC 15 or a contract price for their source program, or 16 an administration fee for the servicing of 17 third-party contracts. Instead of being attached 18 to WAC it could be attached to the third-party 19 contract sales in which they process charge backs 20 for. So with one shipment or one bottle being 21 shipped to a wholesaler, it's difficult to 22 determine for that one bottle if it's going to be</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q. What percentage of the sales of your 2 drugs that go through wholesalers are -- relate 3 to a part of the third-party contract or relate 4 to the source program of the wholesaler?</p> <p>5 MR. ESCOBAR: Objection to the form.</p> <p>6 A. I don't know.</p> <p>7 BY MR. BARNHILL:</p> <p>8 Q. Do you know roughly?</p> <p>9 A. I don't, and we do create, not our 10 department, but accounting does create some 11 assumptions to establish reserves for charge 12 backs. But it's also based upon the inventory 13 levels that the wholesalers carry and I don't 14 know what that ratio is or what that percentage 15 of wholesale purchases are.</p> <p>16 Q. Let's take a one -- I'd like to do 17 this by taking one product. So let's say a WAC 18 price of \$10 and it's going to a third-party 19 contract, going through, flowing through the 20 wholesalers to the third-party contract. You do 21 have a series of third-party contracts that flow 22 through wholesalers; is that correct?</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. All right. 2 And then the wholesaler may get some 3 kind of discounts or distribution fees; is that 4 correct?</p> <p>5 MR. ESCOBAR: Objection to the form.</p> <p>6 A. Yes, and every wholesaler or their 7 negotiation of what that may be could be 8 different from customer to customer or product by 9 product.</p> <p>10 BY MR. BARNHILL:</p> <p>11 Q. Okay. 12 But the one that sort of has a 13 general application is the 2 percent prompt pay; 14 is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. All right. 17 So the wholesaler may get a discount 18 on that \$10 and 2 percent if it pays promptly?</p> <p>19 A. Correct.</p> <p>20 Q. All right. 21 Does it actually pay money or is it 22 just a series of accounting transactions that go</p>
<p style="text-align: right;">Page 79</p> <p>1 MR. ESCOBAR: Objection to the form.</p> <p>2 BY MR. BARNHILL:</p> <p>3 Q. Can you tell us, identify a 4 particular customer who has such a contract?</p> <p>5 A. The VA.</p> <p>6 Q. The VA. I don't want the VA, how 7 about another kind?</p> <p>8 A. A federal supply schedule.</p> <p>9 Q. How about other ones?</p> <p>10 A. Minnesota Multi-State.</p> <p>11 Q. How about other ones?</p> <p>12 A. Gerimed.</p> <p>13 Q. Gerimed, okay.</p> <p>14 And so in that situation the product 15 is shipped to the wholesaler; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And the wholesaler is -- and WAC is 18 \$10?</p> <p>19 A. Yes.</p> <p>20 Q. The wholesaler is invoiced at WAC; is 21 that correct?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">Page 81</p> <p>1 back and forth?</p> <p>2 MR. ESCOBAR: Objection to the form.</p> <p>3 A. No, there are actual -- it's not for 4 that one bottle or for that one order, but as 5 invoices come due we do receive checks from 6 wholesalers.</p> <p>7 BY MR. BARNHILL:</p> <p>8 Q. Okay. 9 And then there are -- you said 10 distribution fees; what's a distribution fee?</p> <p>11 A. As I said we may pay an 12 administrative fee for them servicing contracts. 13 Also if instead of shipping to all other 14 warehouses, if we ship to a centralized facility 15 for them to distribute out to their original 16 warehouses we may pay a depot fee or a 17 distribution fee for that.</p> <p>18 Q. The administrative fee, what's the 19 range of those administrative fees?</p> <p>20 MR. ESCOBAR: Objection to the form.</p> <p>21 A. Zero to 3 percent.</p> <p>22 BY MR. BARNHILL:</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. Okay.</p> <p>2 A. And as I said before that may be 3 attached to WAC or it could be attached to the 4 contract selling price.</p> <p>5 Q. What do you mean attached? I don't 6 follow.</p> <p>7 A. Meaning that 3 percent is -- may be 8 calculated as a percentage off WAC, okay, or a 9 percentage off the contract selling price.</p> <p>10 Q. I understand.</p> <p>11 A. Meaning what the contract sales were 12 for those third-party sales --</p> <p>13 Q. For example, --</p> <p>14 A. -- a percentage of that.</p> <p>15 Q. I didn't mean to interrupt you, I'm 16 sorry.</p> <p>17 For example, WAC may be \$10 but the 18 contract selling price may be five dollars and 19 then in certain circumstances the distribution 20 fee might be off the \$10 or it might be off the 21 five dollars?</p> <p>22 A. Correct.</p>	<p style="text-align: right;">Page 84</p> <p>1 fee, all of these are negotiated individually. 2 For our branded products we may have an inventory 3 management agreement in place that would also be 4 attached to this WAC price. And there would be 5 terms and conditions that surround that about 6 inventory levels or servicing these. 7 third-party contracts, and what I'm referring to 8 is these may not be a single component but many 9 components, just different names for those fees 10 or what we would consider a discount.</p> <p>11 Q. Okay.</p> <p>12 The -- I suppose it's at least 13 theoretically possible based on what you've told 14 me that a wholesaler could get a collection of 15 discounts that total five or six percent? And let 16 me just go --</p> <p>17 A. That's what I was trying to --</p> <p>18 Q. I understand.</p> <p>19 A. That's what I'm trying to clarify is 20 that each of these are negotiated individually 21 and, no, we would not have multiple fees 22 associated with that WAC that would continue to</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. Okay.</p> <p>2 A. And then we also receive data from 3 the wholesalers based upon their inventory levels 4 or their sales out to customers that's EDI 5 transactions sets, that would be included in any 6 of those administrative type fees.</p> <p>7 Q. All right.</p> <p>8 And then there's the depot fee; what 9 is that -- what's the range of the depot fees, a 10 single depot fee?</p> <p>11 A. Zero, I believe the largest depot fee 12 that we have is one and a half percent but I am 13 not for certain.</p> <p>14 Q. Okay.</p> <p>15 So to sum up and I may be summing 16 this up wrong, feel free to tell me.</p> <p>17 A. And let me go back.</p> <p>18 Q. Okay.</p> <p>19 A. They're individually negotiated and 20 they would not be, well, they could be labeled 21 different things but you wouldn't have an admin 22 fee, a distribution fee, a third-party contract</p>	<p style="text-align: right;">Page 85</p> <p>1 add up.</p> <p>2 Q. I see.</p> <p>3 So you would have -- you have the 2 4 percent and then you might have one other fee, 5 which is supposed to take into consideration the 6 other attributes?</p> <p>7 A. Yes.</p> <p>8 MR. ESCOBAR: Objection to the form.</p> <p>9 BY MR. BARNHILL:</p> <p>10 Q. And do you know what the largest 11 discount that you would give a wholesaler is 12 assuming that all these administrative fees are 13 wrapped up into one?</p> <p>14 MR. ESCOBAR: Objection to the form.</p> <p>15 A. As it pertains to WAC, yes, those are 16 representative of those fees associated with WAC. 17 We would negotiate with the wholesaler prices for 18 their source program and that is totally 19 different because we've been talking about them 20 administering third-party contracts.</p> <p>21 BY MR. BARNHILL:</p> <p>22 Q. Right.</p>

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<p style="text-align: right;">Page 102</p> <p>1 rebates to the wholesaler directly from the 2 source programs; is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. What do -- what's the range of 5 rebates that flow to third-party contract 6 purchases?</p> <p>7 MR. ESCOBAR: Objection to the form.</p> <p>8 A. I don't know. I don't recall. Every 9 product is different, it could be zero, it could 10 be any number of percentages.</p> <p>11 BY MR. BARNHILL:</p> <p>12 Q. Okay.</p> <p>13 What's -- could you give me the 14 highest percentage that's --</p> <p>15 MR. ESCOBAR: Objection to the form.</p> <p>16 BY MR. BARNHILL:</p> <p>17 Q. -- on a reasonable basis?</p> <p>18 MR. ESCOBAR: Objection to the form.</p> <p>19 A. And again, throughout time products 20 change, we respond to competition. I can't narrow 21 it.</p> <p>22 BY MR. BARNHILL:</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. BARNHILL:</p> <p>2 Q. Yes.</p> <p>3 A. The customer does.</p> <p>4 Q. Why do you say that?</p> <p>5 A. The customer determines what they're 6 going to purchase our products for and they have 7 a direct involvement in the negotiation of how 8 that structure is.</p> <p>9 Q. I see.</p> <p>10 So who will be -- who negotiates on 11 behalf of Mylan in connection with this kind of 12 process?</p> <p>13 A. I am involved in the negotiations and 14 our sales personnel.</p> <p>15 Q. Okay.</p> <p>16 MR. BARNHILL: All right, five 17 minutes of tape, so let's take a break.</p> <p>18 VIDEOGRAPHER: The time is 11:13 19 a.m.; we're going off the record. This is the end 20 of tape number two.</p> <p>21 * * *</p> <p>22 (Brief break)</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. Okay.</p> <p>2 A. I couldn't give you an example.</p> <p>3 Q. Let me ask you this; who sets, who 4 makes the decision on what rebates are to do 5 before your third-party contract purchases, is 6 that you and your department?</p> <p>7 A. I have a role in that. However, the 8 rebate is essentially a function to get to a net 9 price and there are many ways to get to a net 10 price and we operate within a range, and when 11 that net price is he either determined or when 12 we've reached that net price tolerance then I get 13 others involved.</p> <p>14 Q. And who decides whether something 15 will be a rebate or that the reduction will be 16 taken from the rebate or just to -- a product 17 with a less, at a smaller price -- strike that.</p> <p>18 Who determines whether you're going 19 to bid less for a particular product or bid 20 higher and give a person a rebate?</p> <p>21 MR. ESCOBAR: Objection to the form.</p> <p>22 A. Ultimately?</p>	<p style="text-align: right;">Page 105</p> <p>1 * * *</p> <p>2 VIDEOGRAPHER: The time is 11:26 3 a.m.; we are back on the record.</p> <p>4 This is the beginning of tape number 5 three.</p> <p>6 BY MR. BARNHILL:</p> <p>7 Q. Sticking with the topic we've been 8 discussing, charge backs and rebates and the 9 like; what percentage of your sales that go 10 through wholesalers actually result in a charge 11 back to Mylan?</p> <p>12 MR. ESCOBAR: Objection to the form.</p> <p>13 A. I believe previously I answered I 14 don't know what those percentages are, either in 15 units or dollars. I know we do establish some 16 reserves, but it's on a product by product basis.</p> <p>17 BY MR. BARNHILL:</p> <p>18 Q. Would it be fair to say though 19 that the vast majority of sales that go through 20 wholesalers result in some charge back or 21 other --</p> <p>22 MR. ESCOBAR: Objection to the form.</p>

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<p style="text-align: right;">Page 106</p> <p>1 BY MR. BARNHILL:</p> <p>2 Q. -- based on your knowledge of pricing 3 contracts?</p> <p>4 A. There are some products that do not, 5 however, the majority of the products that we 6 sell to result in charge back. However, there is 7 also some units being shipped to wholesalers that 8 we would not receive a charge back for and we 9 would not know about it.</p> <p>10 Q. What kind of units are those?</p> <p>11 A. That they would sell to one of their 12 customers that is not a part of a source program 13 or not a part of a third-party contract.</p> <p>14 Q. And would you sell to the wholesaler 15 at what price under those circumstances?</p> <p>16 A. We invoice the wholesalers at WAC.</p> <p>17 Q. So it's possible then that there are 18 certain drugs which the wholesalers actually 19 invoiced at WAC that the wholesaler sells at WAC 20 price or above?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay.</p>	<p style="text-align: right;">Page 108</p> <p>1 directly with CVS; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And you shipped to their warehouse; 4 is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. All right.</p> <p>7 So you know the actual price of each 8 drug that's sold to CVS or somebody does; is that 9 correct?</p> <p>10 MR. ESCOBAR: Objection to the form.</p> <p>11 A. That we would sell to CVS?</p> <p>12 BY MR. BARNHILL:</p> <p>13 Q. Yes, and does CVS have its own file 14 which reflects not only the -- which reflects the 15 price at which they're buying the drug and/or 16 rebates or discounts, things like that?</p> <p>17 MR. ESCOBAR: Objection to the form.</p> <p>18 A. Those prices would be loaded in that 19 database.</p> <p>20 BY MR. BARNHILL:</p> <p>21 Q. Okay.</p> <p>22 Would there be a separate file for</p>
<p style="text-align: right;">Page 107</p> <p>1 Now one of the things that you've 2 talked about is the fact that so much of this is 3 customer by customer, product by product, in 4 connection with these various pricing decisions; 5 is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have a -- somebody must keep 8 track of all of these differences; who does that?</p> <p>9 MR. ESCOBAR: Objection to the form.</p> <p>10 A. Keep track of what?</p> <p>11 BY MR. BARNHILL:</p> <p>12 Q. Of the prices at the customers are 13 actually paying or the charge backs that are 14 accruing to the wholesalers?</p> <p>15 MR. ESCOBAR: Objection to the form.</p> <p>16 A. We have databases that we have 17 entered prices into, systems that store that 18 information either for invoicing purposes or 19 charge back processing purposes.</p> <p>20 BY MR. BARNHILL:</p> <p>21 Q. For example, let's take a CVS that 22 you may contract with directly, you do contract</p>	<p style="text-align: right;">Page 109</p> <p>1 rebates or would the net price be loaded into the 2 database?</p> <p>3 MR. ESCOBAR: Objection to the form.</p> <p>4 A. There would be a document with a 5 rebate agreement and it would outline what 6 products were subject to what rebate. Those 7 rebates or the percentages would be loaded into a 8 database.</p> <p>9 BY MR. BARNHILL:</p> <p>10 Q. All right.</p> <p>11 Now it -- somebody must know the 12 overall net price at which you're selling a drug; 13 is that correct?</p> <p>14 MR. ESCOBAR: Objection to the form.</p> <p>15 A. Could you repeat the question, 16 please?</p> <p>17 BY MR. BARNHILL:</p> <p>18 Q. Yeah, to make sure that you're making 19 money you need to know the overall net price at 20 which a particular drug is being sold; is that 21 correct?</p> <p>22 MR. ESCOBAR: Objection to the form.</p>

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<p style="text-align: right;">Page 110</p> <p>1 A. We do some internal analysis and it's 2 based upon a vacuum situation, whereas we assess 3 a customer's units and their invoice price, less 4 any particular discounts were rebates associated 5 with that price, down to a net price level. 6 However, when the product is distributed through 7 the various distribution channels it is difficult 8 to identify at a time of shipment what that net 9 price of that product is until we receive all the 10 data back from the various points.</p> <p>11 BY MR. BARNHILL:</p> <p>12 Q. I see.</p> <p>13 And how long does that transition 14 take?</p> <p>15 MR. ESCOBAR: Objection to the form.</p> <p>16 A. I don't know.</p> <p>17 BY MR. BARNHILL:</p> <p>18 Q. There is a -- you do establish and 19 try to determine a net price based on all the 20 information such as charge backs and so on that 21 come in subsequent; is that correct?</p> <p>22 MR. ESCOBAR: Objection to the form;</p>	<p style="text-align: right;">Page 112</p> <p>1 don't believe it's on a customer specific basis, 2 but a product specific basis.</p> <p>3 Q. Now, we've -- what percentage of your 4 sales, of your product sales are sold ultimately 5 either because of discounts, rebates or charge 6 backs at a price below WAC?</p> <p>7 MR. ESCOBAR: Objection to the form.</p> <p>8 A. As I stated earlier, I don't know.</p> <p>9 BY MR. BARNHILL:</p> <p>10 Q. Well, isn't it fair to say that 11 virtually all of your sales ultimately are sold, 12 all the sales of all of your products of -- 13 putting aside Bertek and any obvious outliers, 14 virtually all your products are sold at a price 15 below WAC?</p> <p>16 MR. ESCOBAR: Objection to the form; 17 misstates the testimony.</p> <p>18 A. And I disagree because you say 19 virtually all and you've mentioned the other 20 exceptions.</p> <p>21 BY MR. BARNHILL:</p> <p>22 Q. I'll rephrase it. That's fair.</p>
<p>1 asked and answered.</p> <p>2 A. As I said, we try to determine or 3 project on a customer bases in a simple 4 distribution method. However, at the time of 5 distribution the various way the product flows, 6 either through the wholesale channel or the 7 distribution channel, it may be unclear at the 8 time of invoicing or distribution. Who that 9 product is going to and the various channels it's 10 going through and we wouldn't know until after we 11 have collected all our data or received all of 12 those submissions from the various wholesalers or 13 the points of distribution.</p> <p>14 BY MR. BARNHILL:</p> <p>15 Q. At that point do you do a 16 reconciliation to see how it's -- how it relates 17 to the projections that were made?</p> <p>18 A. We do a reconciliation. I do not 19 believe it's compared with projections. However, 20 we do have forecast assumptions that we make 21 throughout the year and we compare the product's 22 overall performance with those projections. I</p>	<p style="text-align: right;">Page 113</p> <p>1 It it fair to say that the vast 2 majority of your products are sold ultimately 3 after charge backs, rebates and discounts at a 4 price that is below WAC; is that fair?</p> <p>5 MR. ESCOBAR: Objection to the form.</p> <p>6 It mischaracterizes the testimony.</p> <p>7 A. I don't know because there may be 8 some instances where we don't receive that data 9 because the wholesaler has sold to the customer 10 at whatever price they have chosen to sell that 11 at.</p> <p>12 BY MR. BARNHILL:</p> <p>13 Q. Yeah, but that's a small portion of 14 your business, isn't it?</p> <p>15 MR. ESCOBAR: Objection to the form.</p> <p>16 A. I don't know the percentages or the 17 relativity to our overall sales.</p> <p>18 BY MR. BARNHILL:</p> <p>19 Q. Well, anyway, I'm not talking about 20 what the wholesalers sells, I'm talking about the 21 sales -- the price that you sell to the 22 wholesalers. Ultimately, now that price when you</p>

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<p>1 correct?</p> <p>2 A. Red Book and also Price Alert, and</p> <p>3 I'm not for sure who the publisher is.</p> <p>4 Q. First Data Bank.</p> <p>5 A. Okay.</p> <p>6 Q. And those pricing publications</p> <p>7 publish average wholesale prices; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. All right.</p> <p>11 And did you set your average</p> <p>12 wholesale price, what are the factors that cause</p> <p>13 you to set your average wholesale price at a</p> <p>14 certain level?</p> <p>15 A. What do you mean by factors?</p> <p>16 Q. Well, when you say I'm going to set</p> <p>17 the average wholesale price, what factors do you</p> <p>18 weigh in determining want the average wholesale</p> <p>19 price would be? You said market intelligence, so</p> <p>20 that's what the competition has set the average</p> <p>21 wholesale price at.</p> <p>22 A. That's correct.</p>	<p>Page 130</p> <p>1 when you asked about maximizing average wholesale</p> <p>2 price I said no, let me restate that.</p> <p>3 Every product is different. We want</p> <p>4 to be able to maximize all of our prices to</p> <p>5 maximize our gross margin potential, and having a</p> <p>6 high AWP allows our prices to be high, having a</p> <p>7 low AWP would create our other price points being</p> <p>8 lower. So maximize AWP, it's not per se</p> <p>9 maximizing your AWP and I don't think maximizing</p> <p>10 where we're stating high or low, I think those</p> <p>11 are all relative. We are less in the brand,</p> <p>12 however, you know, having a high AWP gives a</p> <p>13 perception of your product is more expensive,</p> <p>14 okay, having a low AWP may limit our prices or in</p> <p>15 fact our customer prices.</p> <p>16 So what we try to do is be lower than</p> <p>17 the brand, but be in line with where the market</p> <p>18 is so we're not disadvantaged.</p> <p>19 BY MR. BARNHILL:</p> <p>20 Q. Well, one of the things that you said</p> <p>21 was that you need -- that you have a high AWP</p> <p>22 because that allows you to set higher price</p>
<p>1 Q. And what else, anything else?</p> <p>2 A. We set our average wholesale prices</p> <p>3 lower than the branded product.</p> <p>4 Q. Any percentage lower?</p> <p>5 A. Not necessarily. Every product and</p> <p>6 every situation is different and it's based upon</p> <p>7 where the brand is priced, it's going to be lower</p> <p>8 than the brand and if other generics are in the</p> <p>9 market we try to be within the same parity of the</p> <p>10 other generic competitors.</p> <p>11 Q. All right.</p> <p>12 And you try to maximize your average</p> <p>13 wholesale prices?</p> <p>14 MR. ESCOBAR: Objection to the form.</p> <p>15 A. No.</p> <p>16 BY MR. BARNHILL:</p> <p>17 Q. Is there some difference between the</p> <p>18 brand average wholesale price and the average</p> <p>19 wholesale price that Mylan sets that Mylan must</p> <p>20 keep in order to be classified as a generic?</p> <p>21 MR. ESCOBAR: Objection to the form.</p> <p>22 A. I'd like to restate my last answer,</p>	<p>Page 131</p> <p>1 points underneath that; is that fair?</p> <p>2 A. That's correct.</p> <p>3 Q. And by higher price points we're</p> <p>4 talking about WAC and bid prices, things like</p> <p>5 that?</p> <p>6 A. Correct.</p> <p>7 Q. And that's because while there's room</p> <p>8 for you to have a higher price, you're going to</p> <p>9 have it lower than the AWP; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And also because the higher the AWP,</p> <p>12 the perception is that the product is more</p> <p>13 expensive generally, worth more?</p> <p>14 MR. ESCOBAR: Objection to the form.</p> <p>15 A. More expensive than one with a lower</p> <p>16 price.</p> <p>17 Q. Right.</p> <p>18 And why is that beneficial?</p> <p>19 MR. ESCOBAR: Objection to the form.</p> <p>20 BY MR. BARNHILL:</p> <p>21 Q. The AWP is more expensive than the</p> <p>22 one with a lower price?</p>

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